

AMENDED IN ASSEMBLY APRIL 12, 2005

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

ASSEMBLY BILL

No. 1418

Introduced by Assembly Member Jerome Horton

February 22, 2005

An act to ~~add Section 1367.91 to the Health and Safety Code, and to add Section 10123.91 to the Insurance Code, relating to health care coverage.~~ *to amend Sections 19002 and 19355 of, to add Section 19165 to, to add Article 1.5 (commencing with Section 7063) to Chapter 8 of Part 1 of Division 2 of, and to add Article 9 (commencing with Section 19195) to Chapter 4 of Part 10.2 of Division 2 of, the Revenue and Taxation Code, and to amend Sections 2118, 13000, 13010, 13021, 13022, 13052, and 13052.5 of, and to add Sections 13020.1 and 13050.1 to, the Unemployment Insurance Code, relating to taxation.*

LEGISLATIVE COUNSEL'S DIGEST

AB 1418, as amended, Jerome Horton. ~~Health care coverage: maternity benefits—Tax: public disclosure of tax delinquencies: withholding on payments for goods and services.~~

~~Existing law, the Knox-Keene Health Care Service Plan Act of 1975, regulates health care service plans and makes a willful violation of the act a crime. Existing law also provides for the regulation of health insurers by the Department of Insurance, and prohibits a health care service plan or health insurer that provides coverage for maternity benefits from restricting certain benefits.~~

~~This bill would, except as specified, require a health care service plan or health insurance policy that does not include maternity benefits to provide notice, at the time of solicitation, that the plan or policy does not cover or provide those benefits.~~

~~Because a violation of the bill's provisions relating to health care service plans would be a crime, the bill would impose a state-mandated local program.~~

~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that no reimbursement is required by this act for a specified reason.~~

The Sales and Use Tax Law imposes a tax on the gross receipts from the sale in this state of, or the storage, use, or other consumption in this state of, tangible personal property. The sales taxes due under these provisions are generally the obligation of the seller of the personal property. The seller must file a return with the State Board of Equalization and pay all taxes due.

This bill would require the board to make publicly available each quarter a list of the 250 largest tax delinquencies in excess of \$100,000. The quarterly list would contain specified identifying information about the delinquencies. The board would be required to remove certain delinquencies that meet specified criteria within 5 business days, including, among others, those where payment arrangements have been made or a bankruptcy proceeding has been initiated.

The Personal Income Tax Law and the Corporation Tax Law authorize the Franchise Tax Board to administer and collect taxes imposed by those laws and require that those taxes be paid at the time and place, as provided.

This bill would require the Franchise Tax Board to make publicly available each calendar year a list of the 250 largest tax delinquencies in excess of \$100,000, as specified. The annual list would contain specified identifying information about the delinquencies. The Franchise Tax Board would be required to remove certain delinquencies that meet specified criteria within 5 business days, including, among others, those where payment arrangements have been made or a bankruptcy proceeding has been initiated.

Existing law requires every employer who pays wages to an employee for services performed in this state to withhold from those wages, except as provided, specified income taxes, and authorizes the Franchise Tax Board to impose specified requirements for withholding of those taxes.

This bill would modify existing law to extend that withholding requirement to payments made by a state agency or local government to a private entity or person pursuant to a contract for goods or services, as provided. This bill would specify that the withholding rate applicable to those payments would be 3%, and would exempt from the withholding requirement, among other payments, the first \$600 of a payment for goods or services made to the contracting party in a calendar year.

This bill would allow the Franchise Tax Board to have access to the information filed with the Employment Development Department, and would require the department to create and publish forms for reporting and remitting payments made by a state agency or local government pursuant to a contract for goods or services, as specified.

This bill would establish a new crime with respect to the failure to withhold taxes, and thus would create a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Article 1.5 (commencing with Section 7063) is
2 added to Chapter 8 of Part 1 of Division 2 of the Revenue and
3 Taxation Code, to read:

4

5 Article 1.5. Public Disclosure of Tax Delinquencies

6

7 7063. (a) Notwithstanding any other provision of law, the
8 board shall make available as a matter of public record each
9 quarter a list of the 250 largest tax delinquencies in excess of one
10 hundred thousand dollars (\$100,000) under this part. For
11 purposes of compiling the list, a tax delinquency means an
12 amount owing the board which is all of the following:

1 (1) Based on a determination made under Article 2
2 (commencing with Section 6481) or Article 3 (commencing with
3 Section 6511) of Chapter 5 deemed final pursuant to Article 5
4 (commencing with Section 6561) of Chapter 5, or that is “due
5 and payable” under Article 4 (commencing with Section 6536) of
6 Chapter 5.

7 (2) Recorded as a notice of state tax lien pursuant to Chapter
8 14 (commencing with Section 7150) of Division 7 of Title 1 of the
9 Government Code, in any county recorder’s office in this state.

10 (3) For an amount of tax delinquent for more than 90 days for
11 which the person has received tax or tax reimbursement,
12 including any additions, penalties, or interest.

13 (b) For purposes of the list, a tax delinquency does not include
14 any of the following and may not be included on the list:

15 (1) A delinquency that is under litigation in a court of law.

16 (2) A delinquency under which the person has filed a petition
17 for redetermination.

18 (3) A delinquency for which payment arrangements have been
19 agreed to by both the taxpayer and the board and the taxpayer is
20 in compliance with the arrangement.

21 (4) A delinquency under which the taxpayer has filed for
22 bankruptcy protection pursuant to the United States Bankruptcy
23 Code.

24 (c) Each quarterly list shall, with respect to each delinquency,
25 include all the following:

26 (1) The name of the person or persons liable for payment of
27 the tax and that person’s or persons’ last known address.

28 (2) The amount of delinquency, including any applicable
29 interest or penalties.

30 (3) The length of time for which payment has been delinquent.

31 (4) The type of tax that is delinquent.

32 Prior to making a tax delinquency a matter of public record as
33 required by this section, the board shall provide a preliminary
34 written notice to the person or persons liable for the tax by
35 first-class mail, return receipt required. If within 30 days after
36 receipt of the notice of receipt, the person or persons do not
37 remit the amount due or make arrangements with the board for
38 payment of the amount due, the tax delinquency shall be included
39 on the list.

(d) *The quarterly list described in subdivision (a) shall include the following:*

(1) *The telephone number and address of the board office to contact if a person believes placement of his or her name on the list is in error.*

(2) *The aggregate number of persons that have appeared on the list who have satisfied their delinquencies in their entirety and the dollar amounts, in the aggregate, that have been paid attributable to those delinquencies.*

(e) *As promptly as feasible, but no later than 5 business days from the occurrence of any of the following, the board shall remove that taxpayer's name from the list of tax delinquencies:*

(1) *Tax delinquencies for which the person liable for the tax has contacted the board and resolution of the delinquency is being arranged or has been arranged.*

(2) *Tax delinquencies for which the board has verified that an active bankruptcy proceeding has been initiated.*

(3) *Tax delinquencies for which the board has verified that a bankruptcy proceeding has been completed and there are no assets available with which to pay the delinquent amount or amounts.*

(4) *Tax delinquencies that the board has determined to be uncollectible.*

(f) *A person whose delinquency appears on the quarterly list, and who satisfies that delinquency in whole or in part, may request the board to include in its quarterly list any payments that person made to satisfy the delinquency. Upon receipt of that request, the board shall include those payments on the list as promptly as feasible.*

SEC. 2. *Section 19002 of the Revenue and Taxation Code is amended to read:*

19002. (a) The amount withheld under Article 5 (commencing with Section 18661) of Chapter 2, or Section 13020 or 13020.1 of the Unemployment Insurance Code during any calendar year shall be allowed to the recipient of the income or payment for goods or services as a credit against the tax for the taxable year with respect to which the amount was withheld.

(b) In the case of a partnership, limited liability company classified as a partnership for California income tax purposes, or S corporation filing a group return as agent for electing

1 nonresident partners or shareholders in accordance with Section
2 18535, for purposes of this part, the amount withheld under
3 Article 5 (commencing with Section 18661) of Chapter 2 during
4 any taxable year shall be allowed as a credit attributable to the
5 partnership, limited liability company, or S corporation on the
6 group return for the taxable year with respect to which that
7 amount was withheld.

8 (c) (1) For purposes of Section 19306, any tax actually
9 deducted and withheld during any calendar year under Article 5
10 (commencing with Section 18661) of Chapter 2, or Section
11 13020 *or* 13020.1 of the Unemployment Insurance Code shall, in
12 respect of the recipient of the income *or payment for goods or*
13 *services*, be deemed to have been paid on the last day prescribed
14 for filing the return under Article 1 (commencing with Section
15 18501) or Article 2 (commencing with Section 18601) of Chapter
16 2 (without regard to any extension of time for filing the return),
17 with respect to which the tax is allowable as a credit under
18 subdivision (a) or (b).

19 (2) For purposes of Sections 19306 and 19340, any amount
20 paid as estimated tax under Section 19025 or 19136 of this code
21 or Section 13043 of the Unemployment Insurance Code for any
22 taxable year shall be deemed to have been paid on the last day
23 prescribed for filing the return under Article 1 (commencing with
24 Section 18501) or Article 2 (commencing with Section 18601) of
25 Chapter 2 (without regard to any extension of time for filing the
26 return).

27 (d) Notwithstanding subdivision (b) or (c), for purposes of
28 Section 19306 with respect to any tax deducted and withheld
29 under Article 5 (commencing with Section 18661) of Chapter 2,
30 or Section 13020 *or* 13020.1 of the Unemployment Insurance
31 Code both of the following shall apply:

32 (1) If a return is filed before the due date for that return, the
33 return shall be considered filed on the due date.

34 (2) If a tax with respect to an amount paid is paid before the
35 due date for that return, the tax shall be considered paid on the
36 due date.

37 (e) If any overpayment of income tax is claimed as a credit
38 against estimated tax for the succeeding taxable year, that
39 amount shall be considered as a payment of estimated tax in
40 accordance with Section 19007, for the succeeding taxable year,

1 and no claim for credit or refund of the overpayment shall be
2 allowed for the taxable year in which the overpayment arises.

3 *SEC. 3. Section 19165 is added to the Revenue and Taxation*
4 *Code, to read:*

5 *19165. (a) In addition to any other penalty, a penalty shall*
6 *be imposed under this part on any underpayment of tax, as*
7 *provided in subdivision (b).*

8 *(b) The penalty for underpayment of tax shall be as follows:*

9 *(1) For an underpayment in the amount of ten thousand*
10 *dollars (\$10,000) or less, as proposed in the notice of proposed*
11 *deficiency assessment, the penalty is an amount equal to 1*
12 *percent of the underpayment amount.*

13 *(2) For an underpayment in the amount of greater than ten*
14 *thousand dollars (\$10,000) but less than one hundred thousand*
15 *dollars (\$100,000), as proposed in the notice of proposed*
16 *deficiency assessment, the penalty is an amount equal to 2*
17 *percent of the underpayment amount.*

18 *(3) For an underpayment in the amount of greater than one*
19 *hundred thousand dollars (\$100,000) but less than one million*
20 *dollars (\$1,000,000), as proposed in the notice of proposed*
21 *deficiency assessment, the penalty is an amount equal to 5*
22 *percent of the underpayment amount.*

23 *(4) For an underpayment in the amount of one million dollars*
24 *(\$1,000,000) or greater, as proposed in the notice of proposed*
25 *deficiency assessment, the penalty is an amount equal to 10*
26 *percent of the underpayment amount.*

27 *(c) For purposes of this section, the term "underpayment"*
28 *means "underpayment" as defined in Section 6664 (a) of the*
29 *Internal Revenue Code.*

30 *(d) This section does not apply to any portion of an*
31 *underpayment on which a fraud penalty is imposed under Section*
32 *19164.*

33 *SEC. 4. Article 9 (commencing with Section 19195) is added*
34 *to Chapter 4 of Part 10.2 of Division 2 of the Revenue and*
35 *Taxation Code, to read:*

36
37 *Article 9. Public Disclosure of Tax Delinquencies*
38

39 *19195. (a) Notwithstanding any other provision of law, the*
40 *Franchise Tax Board shall make available as a matter of public*

1 record each calendar year a list of the 250 largest tax
2 delinquencies in excess of one hundred thousand dollars
3 (\$100,000) under Part 10 and Part 11 of this division. For
4 purposes of compiling the list, a tax delinquency means an
5 amount owing the Franchise Tax Board which is both of the
6 following:

7 (1) Based on a final determination made by the board under
8 Article 3 (commencing with Section 19031) of this chapter, or a
9 determination made by the board pursuant to Section 19084.

10 (2) Recorded as a notice of state tax lien pursuant to Chapter
11 14 (commencing with Section 7150) of Division 7 of Title 1 of the
12 Government Code, in any county recorder's office in this state.

13 (b) For purposes of the list, a tax delinquency does not include
14 any of the following and may not be included on the list:

15 (1) A delinquency that is under litigation in a court of law.

16 (2) A delinquency under which the person has filed a petition
17 for redetermination.

18 (3) A delinquency for which payment arrangements have been
19 agreed to by both the taxpayer and the Franchise Tax Board and
20 the taxpayer is in compliance with the arrangement.

21 (4) A delinquency under which the taxpayer has filed for
22 bankruptcy protection pursuant to the United States Bankruptcy
23 Code.

24 (c) Each annual list shall, with respect to each delinquency,
25 include all the following:

26 (1) The name of the person or persons liable for payment of
27 the tax and that person's or persons' last known address.

28 (2) The amount of delinquency, including any applicable
29 interest or penalties.

30 (3) The length of time for which payment has been delinquent.

31 (4) The type of tax that is delinquent.

32 Prior to making a tax delinquency a matter of public record as
33 required by this section, the Franchise Tax Board shall provide a
34 preliminary written notice to the person or persons liable for the
35 tax by first-class mail, return receipt required. If within 30 days
36 after receipt of the notice of receipt, the person or persons do not
37 remit the amount due or make arrangements with the Franchise
38 Tax Board for payment of the amount due, the tax delinquency
39 shall be included on the list.

1 (d) *The annual list described in subdivision (a) shall include*
2 *the following:*

3 (1) *The telephone number and address of the Franchise Tax*
4 *Board office to contact if a person believes placement of his or*
5 *her name on the list is in error.*

6 (2) *The aggregate number of persons that have appeared on*
7 *the list who have satisfied their delinquencies in their entirety*
8 *and the dollar amounts, in the aggregate, that have been paid*
9 *attributable to those delinquencies.*

10 (e) *As promptly as feasible, but no later than five business*
11 *days from the occurrence of any of the following, the Franchise*
12 *Tax Board shall remove that taxpayer's name from the list of tax*
13 *delinquencies:*

14 (1) *Tax delinquencies for which the person liable for the tax*
15 *has contacted the Franchise Tax Board and resolution of the*
16 *delinquency is being arranged or has been arranged.*

17 (2) *Tax delinquencies for which the Franchise Tax Board has*
18 *verified that an active bankruptcy proceeding has been initiated.*

19 (3) *Tax delinquencies for which the Franchise Tax Board has*
20 *verified that a bankruptcy proceeding has been completed and*
21 *there are no assets available with which to pay the delinquent*
22 *amount or amounts.*

23 (4) *Tax delinquencies that the Franchise Tax Board has*
24 *determined to be uncollectible.*

25 (f) *A person whose delinquency appears on the annual list,*
26 *and who satisfies that delinquency in whole or in part, may*
27 *request the Franchise Tax Board to include in its annual list any*
28 *payments that person made to satisfy the delinquency. Upon*
29 *receipt of that request, the Franchise Tax Board shall include*
30 *those payments on the list as promptly as feasible.*

31 SEC. 5. *Section 19355 of the Revenue and Taxation Code is*
32 *amended to read:*

33 19355. Any action of the Franchise Tax Board in refunding
34 the excess of tax withheld under Section 18662 or 18666, or
35 estimated tax paid pursuant to Section 19136, or any action of the
36 Employment Development Department in refunding to the
37 employer the excess tax withheld under Section 13020 or
38 13020.1 of the Unemployment Insurance Code, shall not
39 constitute a determination of the correctness of the return of the
40 taxpayer for purposes of this part.

1 *SEC. 6. Section 2118 of the Unemployment Insurance Code is*
2 *amended to read:*

3 2118. Any person or employer who, with or without intent to
4 evade, fails to withhold, pursuant to Section 13020 *or 13020.1*,
5 or fails to pay over any tax withheld, is guilty of a ~~misdemeanor~~
6 *misdemeanor* and, upon conviction, shall be fined an amount not
7 to exceed one thousand dollars (\$1,000), or imprisoned for not
8 more than one year, or both the fine and imprisonment, at the
9 discretion of the court.

10 *SEC. 7. Section 13000 of the Unemployment Insurance Code*
11 *is amended to read:*

12 13000. The department shall have the powers and duties
13 necessary to administer the reporting, collection, refunding to the
14 employer, and enforcement of taxes required to be withheld by
15 employers pursuant to Section 13020 *or by service-recipients*
16 *pursuant to Section 13020.1*, except as otherwise provided by
17 this division.

18 *SEC. 8. Section 13010 of the Unemployment Insurance Code*
19 *is amended to read:*

20 13010. “Withholding agent” means any person required to
21 deduct and withhold any tax under the provisions of Section
22 13020 *or 13020.1*.

23 *SEC. 9. Section 13020.1 is added to the Unemployment*
24 *Insurance Code, to read:*

25 13020.1. (a) *Effective January 1, 2007, any service-recipient*
26 *that enters into a contract for goods or services shall deduct and*
27 *withhold tax prescribed in subdivision (b) on any payment for*
28 *goods or services made to the contracting party in any calendar*
29 *year.*

30 (b) *The rate of tax to be deducted and withheld shall be 3*
31 *percent.*

32 (c) *All of the following payments are exempt from withholding*
33 *required under this section:*

34 (1) *The first six hundred dollars (\$600) of remuneration for*
35 *goods or services paid to a contracting party in a calendar year.*

36 (2) *Payments to tax-exempt entities, foreign governments, and*
37 *intragovernmental payments.*

38 (3) *Payments of wages or any other payment with respect to*
39 *which mandatory withholding applies under Section 13020.*

1 (d) For purposes of this section, “service-recipient” means a
2 state agency or a local government that enters into a contract for
3 goods or services with a private entity or an individual.

4 (e) The Franchise Tax Board shall be allowed access to the
5 information filed with the department pursuant to this section.

6 (f) The department shall develop and publish forms for
7 reporting and remitting payments made and taxes withheld under
8 this section.

9 SEC. 10. Section 13021 of the Unemployment Insurance
10 Code is amended to read:

11 13021. (a) Every employer required to withhold any tax
12 under Section 13020 and every service-recipient required to
13 withhold any tax under Section 13020.1 shall for each calendar
14 quarter, whether or not wages or payments are paid in the
15 quarter, file a withholding report and a report of wages or
16 payments for goods or services in a form prescribed by the
17 department, and pay over the taxes so required to be withheld.
18 The report of wages or payments for goods or services shall
19 include individual amounts required to be withheld under Section
20 13020 or 13020.1 or withheld under Section 13028. Except as
21 provided in subdivisions (c) and (d) of this section, the employer
22 or service-recipient shall file a withholding report and remit the
23 total amount of income taxes withheld during the calendar
24 quarter on or before the last day of the month following the close
25 of the calendar quarter.

26 (b) Every employer electing to file a single annual return
27 under subdivision (d) of Section 1110 shall report and pay any
28 taxes withheld under Section 13020 on an annual basis within the
29 time specified in subdivision (d) of Section 1110.

30 (c) (1) Effective January 1, 1995, whenever an employer or
31 service-recipient is required, for federal income tax purposes, to
32 remit the total amount of withheld federal income tax in
33 accordance with Section 6302 of the Internal Revenue Code and
34 regulations thereunder, and the accumulated amount of state
35 income tax withheld is more than five hundred dollars (\$500), the
36 employer shall remit the total amount of income tax withheld for
37 state income tax purposes within the number of banking days as
38 specified for withheld federal income taxes by Section 6302 of
39 the Internal Revenue Code, and regulations thereunder.

(2) Effective January 1, 1996, the five hundred dollar (\$500) amount referred to in paragraph (1) shall be adjusted annually as follows, based on the annual average rate of interest earned on the Pooled Money Investment Fund as of June 30 in the prior fiscal year:

Average Rate of Interest

Greater than or equal to 9 percent:	\$ 75
Less than 9 percent, but greater than or equal to 7 percent:	250
Less than 7 percent, but greater than or equal to 4 percent:	400
Less than 4 percent:	500

(d) (1) Notwithstanding subdivisions (a) and (c), for calendar years beginning prior to January 1, 1995, if in the 12-month period ending June 30 of the prior year the cumulative average payment made pursuant to this division or Section 1110, for eight-monthly periods, as defined under Section 6302 of the Internal Revenue Code and regulations thereunder, was fifty thousand dollars (\$50,000) or more, the employer *or service-recipient* shall remit the total amount of income tax withheld within three banking days following the close of each eight-monthly period, as defined by Section 6302 of the Internal Revenue Code and regulations thereunder. For purposes of this subdivision, payment shall be made by electronic funds transfer in accordance with Section 13021.5, for one calendar year beginning on January 1. Payment is deemed complete on the date the electronic funds transfer is initiated, if settlement to the state's demand account occurs on or before the banking day following the date the transfer is initiated. If settlement to the state's demand account does not occur on or before the banking day following the date the transfer is initiated, payment is deemed complete on the date settlement occurs. The department shall, on or before October 31 of the prior year, notify all employers required to make payment by electronic funds transfer of these requirements.

(2) Notwithstanding subdivisions (a) and (c), for calendar years beginning on or after January 1, 1995, if in the 12-month period ending June 30 of the prior year, the cumulative average

1 payment made pursuant to this division or Section 1110 for any
2 deposit periods, as defined under Section 6302 of the Internal
3 Revenue Code and regulations thereunder, was twenty thousand
4 dollars (\$20,000) or more, the employer *or service-recipient* shall
5 remit the total amount of income tax withheld within the number
6 of banking days as specified for federal income taxes by Section
7 6302 of the Internal Revenue Code and regulations thereunder.
8 For purposes of this subdivision, payment shall be made by
9 electronic funds transfer in accordance with Section 13021.5, for
10 one calendar year beginning on January 1. Payment is deemed
11 complete on the date the electronic funds transfer is initiated, if
12 settlement to the state's demand account occurs on or before the
13 banking day following the date the transfer is initiated. If
14 settlement to the state's demand account does not occur on or
15 before the banking day following the date the transfer is initiated,
16 payment is deemed complete on the date settlement occurs. The
17 department shall, on or before October 31 of the prior year,
18 notify all employers required by this paragraph to make
19 payments by electronic funds transfer of these requirements.

20 (3) Notwithstanding paragraph (2), effective January 1, 1995,
21 electronic funds transfer payments that are subject to the one-day
22 deposit rule, as defined by Section 6302 of the Internal Revenue
23 Code and regulations thereunder, shall be deemed timely if the
24 payment settles to the state's demand account within three
25 banking days after the date the employer *or service-recipient*
26 meets the threshold for the one-day deposit rule.

27 (4) Any taxpayer required to remit payments pursuant to
28 paragraphs (1) and (2) may request from the department a waiver
29 of those requirements. The department may grant a waiver only if
30 it determines that the particular amounts paid in excess of fifty
31 thousand dollars (\$50,000) or twenty thousand dollars (\$20,000),
32 as stated in paragraphs (1) and (2), respectively, were the result
33 of an unprecedented occurrence for that employer *or*
34 *service-recipient*, and were not representative of the employer's
35 *or service-recipient's* cumulative average payment in prior years.

36 (5) Any state agency required to remit payments pursuant to
37 paragraphs (1) and (2) may request a waiver of those
38 requirements from the department. The department may grant a
39 waiver if it determines that there will not be a negative impact on
40 the interest earnings of the General Fund. If there is a negative

1 impact to the General Fund, the department may grant a waiver if
2 the requesting state agency follows procedures designated by the
3 department to mitigate the impact to the General Fund.

4 (e) Any employer not required to make payment pursuant to
5 subdivision (d) of this section may elect to make payment by
6 electronic funds transfer in accordance with Section 13021.5
7 under the following conditions:

8 (1) The election shall be made in a form, and shall contain
9 information, as prescribed by the director, and shall be subject to
10 approval by the department.

11 (2) If approved, the election shall be effective on the date
12 specified in the notification to the employer of approval.

13 (3) The election shall be operative from the date specified in
14 the notification of approval, and shall continue in effect until
15 terminated by the employer or the department.

16 (4) Funds remitted by electronic funds transfer pursuant to this
17 subdivision shall be deemed complete in accordance with
18 subdivision (d) or as deemed appropriate by the director to
19 encourage use of this payment method.

20 (f) Notwithstanding Section 1112, no interest or penalties shall
21 be assessed against any employer who remits at least 95 percent
22 of the amount required by subdivision (c) or (d), provided that
23 the failure to remit the full amount is not willful and any
24 remaining amount due is paid with the next payment. The
25 director may allow any employer to submit the amounts due from
26 multiple locations upon a showing that those submissions are
27 necessary to comply with the provisions of subdivision (c) or (d).

28 (g) The department may, if it believes that action is necessary,
29 require any employer to make the report required by this section
30 and pay to it the tax deducted and withheld at any time, or from
31 time to time but no less frequently than provided for in
32 subdivision (a).

33 (h) Any employer *or service-recipient* required to withhold
34 any tax and who is not required to make payment under
35 subdivision (c) shall remit the total amount of income tax
36 withheld during each month of each calendar quarter, on or
37 before the 15th day of the subsequent month if the income tax
38 withheld for any of the three months or, cumulatively for two or
39 more months, is three hundred fifty dollars (\$350) or more.

(i) For purposes of subdivisions (a), (c), and (h), payment is deemed complete when it is placed in a properly addressed envelope, bearing the correct postage, and it is deposited in the United States mail.

(j) In addition to the withholding report and report of wages *or payments for goods or services* described in subdivision (a), each employer *or service-recipient* shall file with the director an annual reconciliation return showing the amount required to be withheld under Section 13020 *or 13020.1*, and any other information the director shall prescribe. This annual reconciliation return shall be due on the first day of January following the close of the prior calendar year and shall become delinquent if not filed on or before the last day of that month.

(k) If an employer demonstrates that an undue hardship would be imposed, the director may authorize an exemption from the requirement in subdivision (a) to report individual amounts withheld under Section 13020 and the requirement in subdivision (j) to file the annual reconciliation return for the 1995 calendar year only. Any request for exemption must be filed on or before January 15, 1995. Upon approval of a request for exemption under this subdivision, the employer shall file quarterly returns reporting the amount withheld under Section 13020, the statement required to be furnished under Section 13050, and the annual return required by Section 13053, for the 1995 calendar year only.

SEC. 11. Section 13022 of the Unemployment Insurance Code is amended to read:

13022. In determining the amount to be deducted and withheld under ~~Section~~ *Sections 13020 and 13020.1*, the wages *and payments for goods or services* may, at the election of the employer *or service-recipient*, be computed to the nearest dollar.

SEC. 12. Section 13050.1 is added to the Unemployment Insurance Code, to read:

13050.1. (a) Every service-recipient required to withhold under Section 13020.1 shall furnish to each person whose name is required to be set forth in a return reporting withholding pursuant to Section 13020.1 a written statement during the calendar year, or before January 31, of the succeeding calendar year, showing all of the following:

1 (1) *The full name, address, and taxpayer identification number*
2 *of the person with respect to whom a return or statement is*
3 *required under this section.*

4 (2) *The service-recipient's name, business name, address, and*
5 *telephone number.*

6 (3) *The service-recipient's federal employer identification*
7 *number, California state employer account number, social*
8 *security number, or other identifying number as required by the*
9 *department in consultation with the Franchise Tax Board.*

10 (4) *The aggregate amount of payments to the person required*
11 *to be shown on the return.*

12 (5) *The amount withheld pursuant to Section 13020.1.*

13 (b) *The statement required to be furnished pursuant to this*
14 *section shall be furnished at other times and shall contain other*
15 *information as the department may by authorized regulations*
16 *prescribe.*

17 (c) *A duplicate of any statement made pursuant to subdivision*
18 *(a) shall be filed with the department by February 28 of the*
19 *succeeding calendar year.*

20 (d) *An itemized statement showing the information required*
21 *under subdivision (a) shall be furnished to each service-provider*
22 *at the time of payment of remuneration.*

23 SEC. 13. *Section 13052 of the Unemployment Insurance*
24 *Code is amended to read:*

25 13052. Any person or employer required under Section 13050
26 *or Section 13050.1* to furnish a statement to an employee *or to a*
27 *person* who furnishes a false or fraudulent statement, or who fails
28 to furnish a statement in the manner, at the time, and showing the
29 information required under Section 13050 *or 13050.1*, or
30 regulations prescribed thereunder, shall for each such failure,
31 unless due to reasonable cause, pay a penalty of fifty dollars
32 (\$50). The penalty shall be assessed and collected in the same
33 manner as the tax.

34 SEC. 14. *Section 13052.5 of the Unemployment Insurance*
35 *Code is amended to read:*

36 13052.5. (a) In addition to the penalty imposed by Section
37 19183 of the Revenue and Taxation Code (relating to failure to
38 file information returns), if any person, or entity fails to report
39 amounts paid as remuneration for personal services as required
40 under Section 13050 *or 13050.1* of this code or Section 6041A of

1 the Internal Revenue Code on the date prescribed thereof
2 (determined with regard to any extension of time for filing), that
3 person or entity may be liable for a penalty determined under
4 subdivision (b).

5 (b) For purposes of subdivision (a), the amount determined
6 under this subdivision is the maximum rate under Section 17041
7 of the Revenue and Taxation Code multiplied by the unreported
8 amounts paid as remuneration for personal services.

9 (c) The penalty imposed by subdivision (a) shall be assessed
10 against that person or entity required to file a return under
11 Section 13050 *or 13050.1* of this code or Section 6041A of the
12 Internal Revenue Code.

13 (d) Sections 1221 and 1222 of the Unemployment Insurance
14 Code shall not apply to assessments imposed by this section.

15 (e) The penalty imposed under this section shall be in lieu of
16 the penalty imposed under Section 19175 of the Revenue and
17 Taxation Code. In the event that a penalty is imposed under both
18 this section and Section 19175 of the Revenue and Taxation
19 Code, only the penalty imposed under this section shall apply.

20 (f) The penalty imposed by this section may be assessed in
21 lieu of, or in addition to, the penalty imposed by Section 13052
22 with respect to the failure to furnish a withholding statement to
23 an employee *or to a person*.

24 *SEC. 15. No reimbursement is required by this act pursuant*
25 *to Section 6 of Article XIII B of the California Constitution*
26 *because the only costs that may be incurred by a local agency or*
27 *school district will be incurred because this act creates a new*
28 *crime or infraction, eliminates a crime or infraction, or changes*
29 *the penalty for a crime or infraction, within the meaning of*
30 *Section 17556 of the Government Code, or changes the definition*
31 *of a crime within the meaning of Section 6 of Article XIII B of the*
32 *California Constitution.*

33 ~~SECTION 1. The Legislature finds and declares the~~
34 ~~following:~~

35 ~~(a) Health insurance premiums have steadily risen by double~~
36 ~~digits every year since 2001. In light of this, mandating~~
37 ~~individual Californians to purchase new benefits, such as~~
38 ~~maternity benefits, is counterproductive to efforts to make health~~
39 ~~insurance more affordable and available to low-income and~~

~~1 moderate-income people or those who do not receive
2 employer-sponsored coverage.~~

~~3 (b) Furthermore, mandating maternity benefits could have the
4 unintended consequence of forcing Californians that purchase
5 their own coverage for themselves and their children out of the
6 health insurance market altogether, further adding to California's
7 uninsured population.~~

~~8 (c) At the same time, the Legislature recognizes that a
9 consumer should be adequately informed whenever he or she
10 purchases an insurance policy that does not cover maternity
11 benefits. Therefore, having balanced the competing policy
12 interests, Californians would be better served by requiring all
13 health care service plans and health insurance policies that do not
14 cover maternity benefits to include a clear notice to the
15 consumer.~~

~~16 SEC. 2. Section 1367.91 is added to the Health and Safety
17 Code, to read:~~

~~18 1367.91. (a) Each health care service plan that offers a plan
19 contract that does not include maternity benefits shall make
20 available at the time of solicitation the following notice, as part
21 of the sales material, in 12-point type:~~

~~22 -~~

~~23 "IMPORTANT NOTICE~~

~~24 PLEASE BE AWARE THAT YOU HAVE ENROLLED IN A
25 PLAN THAT DOES NOT COVER OR PROVIDE BENEFITS
26 FOR PREGNANCY OR MATERNITY CARE. NO BENEFITS
27 WILL BE PAID FOR ANY CARE OR TREATMENT
28 RELATED TO PREGNANCY OR MATERNITY CARE,
29 INCLUDING, BUT NOT LIMITED TO, PRENATAL CARE,
30 AMBULATORY CARE MATERNITY SERVICES,
31 NEONATAL CARE, INPATIENT HOSPITAL MATERNITY
32 CARE, INCLUDING LABOR OR DELIVERY, ELECTIVE
33 TERMINATION OF PREGNANCY, OR POSTPARTUM
34 CARE."~~

~~35 SEC. 3. Section 10123.91 is added to the Insurance Code, to
36 read:~~

~~37 10123.91. (a) Each insurer that offers a health insurance
38 policy that does not include maternity benefits shall make
39 available at the time of solicitation the following notice, as part
40 of the sales material, in 12-point type:~~

“IMPORTANT NOTICE:

PLEASE BE AWARE THAT YOU HAVE PURCHASED A POLICY THAT DOES NOT COVER OR PROVIDE BENEFITS FOR PREGNANCY OR MATERNITY CARE. NO BENEFITS WILL BE PAID FOR ANY CARE OR TREATMENT RELATED TO PREGNANCY OR MATERNITY CARE, INCLUDING, BUT NOT LIMITED TO, PRENATAL CARE, AMBULATORY CARE MATERNITY SERVICES, NEONATAL CARE, INPATIENT HOSPITAL MATERNITY CARE, INCLUDING LABOR OR DELIVERY, ELECTIVE TERMINATION OF PREGNANCY, OR POSTPARTUM CARE.”

(b) This section shall not apply to Medicare supplement, short-term limited duration health insurance, vision-only, dental-only or Champus-supplement insurance, or to hospital indemnity, hospital-only, accident-only, or specified disease insurance.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.